

REMARKS

Reconsideration and allowance of this application are respectfully requested. Claims 2-3 and 7-8 are cancelled. Claims 11-13 are allowed. Claims 1, 4-6, 9-10, and 14-19 remain pending in this application and, as amended herein, are submitted for the Examiner's reconsideration.

Applicants note with appreciation the Examiner's allowance of claims 11-13.

In the Office Action, claims 1, 4-6, 9-10, 14, 16, and 18 were rejected under 35 U.S.C. § 102(b) as being anticipated by Ro (U.S. Patent Application Publication No. 2002/0150123). Applicants submit that the claims are patentably distinguishable over the relied on sections of Ro.

As an example, claim 1 recites:

...the encoding means calculates based on the multiplexing-completion signal an area occupied by the encoded data in the storage means, releases the area occupied by the encoded data, and controls a bit rate of the encoding of further data inputted by the input means based on the area that was occupied by the encoded data.

(Emphasis added.) The relied on sections of Ro neither disclose nor suggest controlling a bit rate of encoding of (inputted) further data. Further, the relied on sections of Ro neither disclose nor suggest controlling a bit rate of encoding of (inputted) further data based on an area that was occupied by encoded data. Moreover, the relied on sections of Ro neither disclose nor suggest controlling a bit rate of encoding of further data inputted by input means based on an area that was occupied by encoded data.

Rather, such sections of Ro merely disclose:

[0047] The sending network interface module 110 can store the system stream as needed in a network buffer 224. A network condition module 220 can receive network status information from the sending supervisor module 102 and the receiving supervisor

module 104 (FIG. 1). The network status can comprise the network communication rate for the receiving architecture 111 (FIG. 1), a consumption rate of the receiving architecture 111, a media transmission rate of the sending architecture 101, and other status information. Architectures 101, 111 can exchange status information through network headers attached to data streams. The network headers can comprise the status information.

[0048] Based on a comparison of the network communication rate and a media transmission rate of the incoming system stream, the network condition module 220 can determine whether to adjust the system stream. If adjustments to the system stream are needed, a compensation module 222 can decrease the size of packets in the system stream or can remove certain packets from the system stream. That process can allow the network communication rate to accommodate the media transmission rate of the system stream.

(Emphasis added.) That is, such sections merely describe adjusting a system stream by controlling packet size or removing packets. The relied on sections of Ro are not concerned with controlling a bit rate of encoding of (inputted) further data, and the relied on sections of Ro are not concerned with controlling a bit rate of encoding of (inputted) further data based on an area that was occupied by encoded data.

It follows, for at least the above reasons, that the relied on sections of Ro do not disclose or suggest the combination defined in claim 1 and therefore do not anticipate the claim.

Independent claims 6 and 10 each call for features similar to those set out in the above excerpt of claim 1. Each of these claims is therefore patentably distinguishable over the relied on sections of Ro for at least the reasons set out above regarding claim 1.

Claims 4-5 and 14 depend from claim 1, claims 9 and 16 depend from claim 6, and claim 18 depends from claim 10.

Therefore, each of these claims is distinguishable over the relied on sections of Ro at least for the same reasons as its parent claim.

Claims 15, 17, and 19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ro in view of Terao (U.S. Patent No. 7,187,844). Applicants submit that the claims are patentably distinguishable over the relied on sections of the references.

Claim 15 depends from claim 1, claim 17 depends from claim 6, and claim 19 depends from claim 10. Therefore, each of the claims is distinguishable over the relied-on sections of Ro for at least the same reasons.

The relied-on sections of Ro do not overcome the deficiencies of the relied-on sections of Terao.

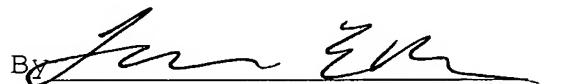
Accordingly, Applicants respectfully request the withdrawal of the rejections under 35 U.S.C. §§ 102(b) and 103(a).

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that the Examiner telephone applicants' attorney at (908) 654-5000 in order to overcome any additional objections which the Examiner might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

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